

Martinez v. Illinois, --- U.S. --- (2014)
Decided May 27, 2014

FACTS: In August, 2006, Martinez was indicted on charges of aggravated battery and mob action against Binion and Scott. For some four years, however, the case stalled, mostly due to delays caused by Martinez. Finally, on July 20, 2009, in the face of a pending trial date on August 3, the State moved for a continuance because it could not locate Binion and Scott. Subpoenas for the pair were issued and the case continued to September 28. Still unable to find the two men, another continuance and then another was requested by the State and given by the trial court. Finally, on March 29, another continuance was granted, apparently Binion and Scott were present, and the two men were ordered to appear on May 10, with a trial date set for May 17.

On May 17, “Binion and Scott were again nowhere to be found.” The State asked for a brief continuance and the trial court offered to delay swearing in the jurors until the entire panel was present. At that point, the State would have the choice of having the jury sworn or dismissing the case. Binion and Scott still not arriving, the trial court offered to call the other cases on the docket and delay swearing in the jury for a bit longer. When all delays had run out, and Binion and Scott still not being present, the State moved for yet another continuance. The trial court denied the motion, noting that the case had been ongoing for five years and that the two witnesses “are well known in Elgin, both are convicted felons.” Further, it stated that “one would believe that the Elgin Police Department would know their whereabouts.” The trial court offered to issue “body writs¹” for the pair and that the state “might want to send the police out to find these two gentlemen.” The trial court noted that there were a total of 12 witnesses on the state’s list and that it could proceed with the witnesses present in anticipation of the missing pair being located and brought to court.

The trial court brought in the jury and gave it the oath. Upon directing the prosecution to proceed, the prosecutor stated that “the State is not participating in this case.” After several other back and forth discussions, the defense moved for acquittal, which the trial court granted. The State then appealed, arguing that it should have been granted a continuance. The Illinois appellate court agreed that jeopardy had not attached and that the continuance should have been granted. The Illinois Supreme Court affirmed.

Martinez requested certiorari and the U.S. Supreme Court granted review.

ISSUE: Does the swearing in of the jury signal the start of a trial, triggering the Double Jeopardy Clause?

HOLDING: Yes

DISCUSSION: The Court began by noting that “there are few if any rules of criminal procedure clearer than the rule that ‘jeopardy attaches when the jury is

¹ In Kentucky, such writs might take the form of a “Forthwith Order of Arrest” or a “Capias Warrant.”

empaneled and sworn.”² In Downum v. U.S., the Court had held that case “pinpointed the state in a jury trial when jeopardy attaches, and [it] has since been understood as explicitly authority for the proposition that jeopardy attaches when the jury is empaneled and sworn.”³ Jeopardy attaches when a defendant is “put to trial” and that occurs when the jury is “empaneled and sworn.”⁴

Although the Court agreed that Martinez was subjected to jeopardy, that was not the end of the matter. The Court then looked to whether the case “ended in such a manner that the defendant may not be retried.” In this case, the Court found no doubt that was the case – as he was acquitted of the charged offenses. “Perhaps the most fundamental rule in the history of double jeopardy jurisprudence has been that ‘[a] verdict of acquittal ... could not be reviewed ... without putting [a defendant] twice in jeopardy, and thereby violating the Constitution.’”⁵ In this case, the Court ruled that the prosecution had failed to prove its case, acquitting Martinez. The Court had tried to delay the process as long as possible but in the end, when the prosecutor refused to dismiss the case, the Court was forced to do so in the only way possible to it, by acquitting Martinez.⁶

The Court reversed the decision of the Supreme Court of Illinois and remanded the case.

FULL TEXT OF OPINION: http://www.supremecourt.gov/opinions/13pdf/13-5967_7m5e.pdf

² Crist v. Bretz, 437 U. S. 28 (1978).

³ 372 U. S. 734 [(1963)],

⁴ Serfass v. U.S., 420 U. S. 377 (1975).

⁵ U.S. v. Martin Linen Supply Co., 430 U. S. 564 (1977);

⁶ In a footnote, the Court acknowledged that jeopardy may still have attached, however, and a retrial barred.